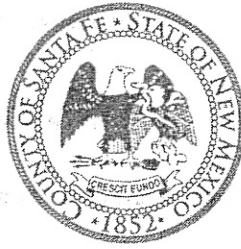


Henry P. Roybal
Commissioner, District 1

Anna Hansen
Commissioner, District 2

Rudy N. Garcia
Commissioner, District 3



Anna T. Hamilton
Commissioner, District 4

Ed Moreno
Commissioner, District 5

Katherine Miller
County Manager

CASE NO. APP 18-5071
APPEAL/PARTIAL PLAT VACATION
ANGELO ORTEGA, APPLICANT-APPELLANT

ORDER

THIS MATTER came before the Board of County Commissioners (BCC) for a hearing on December 11, 2018, on an Appeal from Angelo Ortega (Applicant-Appellant) appealing the Santa Fe County Planning Commission's decision to deny a variance of the Sustainable Land Development Code (SLDC), of Chapter 10, Section 10.4.2.1 to allow an accessory dwelling unit within a major subdivision. If the appeal is approved by the Board of County Commissioners (BCC), the Applicant-Appellant also requests a partial plat vacation to modify a plat note that prohibits guest houses within the Vista de Sandia Subdivision to allow Lot 10 to have an accessory dwelling unit. The property is located at 120 North Paseo De Angel, in the La Cienega and La Cieneguilla Community District Overlay (LCLCCD) (RES-E), within Section 22, Township 16 North, Range 8 East, (Commission District 3).

The BCC, having reviewed the Application and supplemental materials, staff reports, Recommended Decision of the Hearing Examiner, and the Final Order of the Planning Commission, and having conducted a public hearing on the request, finds that the Application is well-taken and should be granted subject to conditions, and also that the partial plat vacation be approved subject to conditions, and makes the following findings of fact and conclusions of law:

I. Background

1. The property on which the Proposed Development will occur is located in the Vista de Sandia Subdivision at 120 North Paseo De Angel (Property), in the La Cienega and La Cieneguilla Community District Overlay (LCLCD) (RES-E), within Section 22, Township 16 North, Range 8 East (Commission District 3).
2. The Property is owned by the Applicant-Appellant Angelo Ortega as evidenced by a warranty deed recorded in the records of the Santa Fe County Clerk on July 5, 2001, in Book 1935 page 547. [P. 74¹, Staff Report Ex. 15]
3. The Applicant-Appellant owns and occupies a single family residence of approximately 2300 square feet of total roofed area located on the Property, 1884 square feet of which is heated. The Applicant-Appellant seeks to place an accessory dwelling on the Property as a residence for his adult daughter, who currently resides with the Applicant-Appellant.
4. The Property is located within the Vista de Sandia Subdivision, which is identified as a major subdivision. The plat for the sixteen lot Vista de Sandia Subdivision was approved by the BCC in 1996 in case number 94-2173. Subdivision lot sizes of 2.5 to 2.6 acres were approved based on a hydrologic study prepared by Geologist/Hydrologist Jack Frost, which documented sufficient water to support water use for each lot of no more than 0.25 acre feet per year.
5. The Property consists of 2.5± acres and comprises Lot 10 of the Vista de Sandia Subdivision. [Plat, Exhibit 5, P. 21.]

¹ "P. _" refers to Staff's sequential numbering of the Staff Report the exhibits attached thereto.

6. The approved plat for Vista de Sandia Subdivision contains a condition found at Note 12 that prohibits guest homes within the subdivision. [Id.]
7. On April 16, 2018, Angelo Ortega submitted an application requesting a variance to allow an accessory dwelling unit within a major subdivision and a variance to allow an accessory dwelling to have its own separate liquid waste system.
8. The Application included a request that should the variances be granted, a partial plat vacation also be granted by the BCC to modify the plat note that prohibits guest houses within the Vista de Sandia Subdivision to allow lot 10 to have an accessory dwelling unit.
9. The Applicant-Appellant signed and submitted a proposed "Partial Vacation of Plat of Lot 10, Vista de Sandia Subdivision." [Staff Report, Exhibit 8.]
10. The Applicant-Appellant requests that the BCC overturn the Santa Fe County Planning Commission decision to deny the variance request of Chapter 10, Section 10.4.2.1 to allow an accessory dwelling unit within a major subdivision. [Exhibit 1, P. 12.]
11. If the appeal is approved by the Board of County Commissioners, the Applicant-Appellant, requests a partial plat vacation to modify a plat note that prohibits guest houses within the Vista de Sandia Subdivision to allow lot 10 to have an accessory dwelling unit. [Id.]
12. The Applicant-Appellant's stated intention for seeking the variance and the modification to the plat note is to provide an accessory dwelling for his adult daughter to live in. [Exhibit 1, P. 14.]

II. Applicable Provisions of the SLDC

13. The applicable requirements under the Santa Fe County Land Development Code (SLDC), Ordinance No. 2016-9, which govern this Application are as follows:

a. Chapter 10, Section 10.4.2.1. Number Permitted states,

10.4.2.1. Number Permitted. Only one accessory dwelling unit shall be permitted per legal lot of record. Platted major subdivisions shall only be permitted to have an accessory dwelling unit if their approval and reports and SRAs allowed and accounted for this.

b. Chapter 10, Section 10.4.2.4. Utilities states,

10.4.2.4. Utilities. Water and electricity for the accessory dwelling unit shall be shared with the principal residence. Liquid waste disposal shall be in common with the principal residence; however, if the principal residence is on a septic system, then any modifications to the system to accommodate the accessory dwelling unit shall be approved by NMED.

c. Chapter 4, Section 4.9.7.1. Variance, Purpose, states:

The purpose of this Section is to provide a mechanism in the form of a variance that grants a landowner relief from certain standards in this code where, due to extraordinary and exceptional situations or conditions of the property, the strict application of the code would result in peculiar and exceptional practical difficulties or exceptional and undue hardship on the owner. The granting of an area variance shall allow a deviation from the dimensional requirements and standards of the Code, but in no way shall it authorize a use of land that is otherwise prohibited in the relevant zoning district.

d. Chapter 4, Section 4.9.7.4. Review criteria states:

A variance may be granted only by a majority of all the members of the Planning Commission (or the Board, on appeal from the Planning Commission) based upon the following criteria:

1. where the request is not contrary to the public interest;
2. where due to extraordinary and exceptional situations or conditions of the property, the strict application of the code would result in peculiar and exceptional practical difficulties or exceptional and undue hardship on the owner; and
3. so that the spirit of the SLDC is observed and substantial justice is done.

e. Chapter 4, Section 4.5.4. Appeal of a Final Decision of the Planning Commission.

Any party with standing may appeal a final decision of the Planning Commission to the Board. The application seeking an appeal of a decision of the Planning Commission must be filed with the Administrator. An appeal from a decision of the Planning Commission

must be filed within thirty (30) working days of the date of the decision and recordation of the final development order by the Planning Commission. The application shall be forwarded by the Administrator to the Board. The Administrator shall provide to the Board a copy of the record of the proceedings below of the decision appealed. The appeal shall be placed on the docket of the Board for consideration on the next available agenda. An appeal of the decision of the Planning Commission shall be reviewed *de novo* by the Board. The timely filing of an appeal shall stay further processing of the application unless the Board determines that special circumstances exist.

f. Chapter 15, Section 5.11.2. Vacation of Approved Plat provides:

5.11.2.1. **Applicability.** Any final plat filed in the Office of the County Clerk may be vacated, or a portion of the final plat may be vacated, if:

1. the owners of the land proposed to be vacated sign an acknowledged statement, declaring that the final plat or portion to be vacated;
2. the statement is approved by the Board {BCC}; and
3. if the plat or portion of plat, to be vacated was initially approved by administrative process, the Administrator may approve the vacation or partial vacation of the plat.

5.11.2.2. **Application.** The owners of all or a portion of the lots in any approved subdivision or land division, may initiate a plat vacation by filing an application with the Administrator. The application shall include the acknowledged statement required by Section 5.11.2.1.1. The application requesting vacation of the plat and an application requesting a re-subdivision of the plat may be filed concurrently.

5.11.2.3. **Review.**

1. **Process.** The Administrator shall review and process the application and the acknowledged statement of plat vacation as provided in] Table 4-1. The application and acknowledged statement shall be approved, conditionally approved, or disapproved at a regular public meeting of the Board, or by the Administrator in accordance with Section 5.11.2.1.3. above.
2. **Standards.** The Administrator or Board shall approve the application for vacation on such terms and conditions as are reasonable to protect the public health, safety and welfare. The Administrator or Board shall not approve an application for vacation if it will adversely affect the interests of persons on contiguous land or persons within the subdivision being vacated.

III. Public Hearing Process

14. As required by the SLDC, the Applicant-Appellant presented the Application to the Technical Advisory Committee (TAC) on March 15, 2018, at the regularly scheduled

monthly meeting, which satisfied the requirements set forth in Chapter 4, TAC Meeting Table 4-1.

15. The Applicant-Appellant also conducted a pre-application neighborhood meeting on April 12, 2018. [Exhibit 16, Pp. 75-82.]
16. The Applicant-Appellant appeared before the Sustainable Land Development Code Hearing Officer (Hearing Officer) on June 14, 2018. [Exhibit 6, Pp. 22-36.]
17. The Hearing Officer recommended approval of a variance to Chapter 10, Section 10.4.2.1. to allow an accessory dwelling within a major subdivision, and a variance of Section 10.4.2.4 (Utilities) to allow a separate liquid waste system for the accessory dwelling unit subject to the following conditions:
 - a. Applicant must request a partial plat vacation to modify the note that prohibits guest houses and re-record the plat;
 - b. Applicant must install a meter on the well and submit proof at time of development application; and
 - c. Applicant will ensure that water use on Lot 10 does not exceed a total of 0.25 acre feet per year for the dwelling and accessory dwelling combined.

[Id.]

18. On July 19, 2018, the variance request application was presented to the Santa Fe County Planning Commission (Planning Commission). [Pp. 46-59.] The Planning Commission denied the variances requested to allow an accessory dwelling unit within a major subdivision and a variance request to allow a separate liquid waste system for the accessory dwelling unit. [Id.] The Planning commission denied the request, in part, because there was insufficient information to determine whether the accessory dwelling would impact the limited resources of the development and the Applicant-Appellant

failed to provide any documentation from NMED that an additional septic system is required.

19. On September 25, 2018, the Applicant-Appellant filed an application requesting an appeal of the Planning Commission's Findings of Fact and Conclusion of Law denying his requested variance to allow an accessory dwelling unit within a major subdivision. [Exhibit 1, Pp. 12-15.] In addition, the Applicant-Appellant provided an updated/approved liquid waste permit from the New Mexico Environment Department (NMED) stating "The proposed system constitutes one system or designed dtd." [Exhibit 3, pp. 17-19.] Staff has determined that the approved liquid waste permit is compliant with the SLDC, meeting code requirements set forth in Chapter 10, Section 10.4.2.4 (Utilities). [Staff Report, P. 5.]
20. The Applicant-Appellant's September 25, 2018 appeal also contained a formal request for the BCC to take action on his request for a partial plat vacation to remove the prohibition against guest homes contained in Note 12 of the plat with respect to his lot. [Exhibit 1, P. 12.]
21. Prior to the hearing before the Board of County Commissioners, notice requirements of the SLDC were met pursuant to Chapter 4, Section 4.6.3., General Notice of Application Requiring a Public Hearing. In advance of a hearing on the Application, the Applicant-Appellant provided notice to the New Mexican, which was published on October 23, 2018. [Exhibit 11, P. 64.] The Applicant-Appellant has also provided certification of posting acknowledging that the public notice has been posted for 15 days on the property, beginning on October 18, 2018. [Exhibit 11. Pp. 65-70.] These noticing efforts comply with the noticing requirements of the Code.

22. During the BCC hearing, staff recommended denial of the Applicant-Appellant's request, and that the BCC uphold the Santa Fe County Planning Commission's decision to deny the Applicant-Appellants variance request to allow an accessory dwelling within a major subdivision and therefore not act upon the partial plat vacation. [Minutes of December 11, 2018, BCC Meeting, p. 61.] Staff further provided that should the BCC decide to approve the Applicant-Appellant's request, staff recommended imposition of the following conditions:

- a. The Applicant-Appellant must request a partial plat vacation to modify the note that prohibits guest houses and re-record the plat;
- b. The Applicant-Appellant must install a meter on the well and submit proof at time of development application; and
- c. The Applicant-Appellant will ensure that water use on Lot 10 does not exceed a total of 0.25 acre feet per year for the dwelling and accessory dwelling combined, and shall provide annual water meter readings to the Land Use Administrator.

[[Id.]

23. The Applicant-Appellant agreed with staff's proposed conditions.

IV. Standard of Review

24. Chapter 4, Section 4.5.4 provides that "[a]n appeal of the decision of the Planning Commission shall be reviewed *de novo* by the Board." Accordingly, the BCC reviews this appeal *de novo*.

V. Compliance with the SLDC

25. Under Chapter 10, Section 10.4.2.1, accessory dwellings are only permitted in major subdivisions if allowed and accounted for in the approval and reports and SRAs of the subdivision. The Vista de Sandia Subdivision was approved by the BCC in 1996 without the approval of accessory dwellings and with an express prohibition against guest houses. [Exhibit 5] Accordingly, the Applicant-Appellant must obtain a variance to Section

- 10.4.2.1 as well as a partial plat vacation of the prohibition against guest houses for his lot in order to construct an accessory dwelling.
26. The proposed accessory dwelling, incidental and subordinate to the principal residence, is permitted within this zoning district. [P. 12; Minutes of December 11, 2018, BCC Meeting, p. 62.]
27. The proposed accessory dwelling would be occupied by the Applicant-Appellant's daughter, who already resides on the property, thus limiting any potential increase in water consumption, liquid waste generation, or vehicular traffic. [Minutes of December 11, 2018, BCC Meeting, p. 61.]
28. The Applicant-Appellant agrees to conditions recommended by Staff, including a requirement that Applicant-Appellant install a water meter and limit the combined water use for the two dwelling units to 0.25 acre feet per year. [Minutes of December 11, 2018, BCC Meeting, p. 62.]
29. The proposed accessory dwelling would, at 920 square feet, be less than 50% of the 1884 square feet of heated space of the principal residence, and would thus comply with accessory dwelling size requirements established in Section 10.4.2.2.
30. The proposed accessory dwelling would be accessed through the same driveway as the principal residence, and would thus comply with Section 10.4.2.3. [Exhibit 13, P. 72.]
31. Since the Planning Commission hearing on this matter, Applicant-Appellant obtained approval from NMED for modification of his existing septic tank and leach field so that that it may be shared with the proposed accessory dwelling, as required by Section 10.4.2.4, thereby obviating the need for a variance to that section. [Exhibit 3, P. 17; Staff Report, P. 5; Minutes of December 11, 2018, BCC Meeting, p. 61.]

32. In a recent and somewhat similar case from the same subdivision, MIS 18-5000 Dorothy Montoya, Applicant-Appellant, the BCC approved a partial plat vacation to remove the restriction against guest homes after the Planning Commission granted a variance to Section 10.4.2.1. [Exhibit 19]

VI. Public Comment

33. At the public hearing on the Application during the December 11, 2019 BCC meeting no one spoke in favor of or in opposition to the requested appeal, the variance, or the requested partial plat vacation. [Minutes of December 11, 2018, Commission Meeting, p. 63.]
34. Kathryn Becker of the La Cienega Valley Association appeared at the Planning Commission hearing on this matter and submitted a letter from the Association president opposing the variances requested based primarily on concerns about the possible impact on scarce water resources. [Exhibit 23]

VII. Conclusions of Law

35. Any finding or conclusion set forth above that may be construed a conclusion of law is hereby incorporated as such to the same extent as if it were expressly denominated as a conclusion of law.
36. The Applicant-Appellant's appeal of the Commission's decision to the BCC is timely.
37. The granting of the variance requested would not authorize a use of land that is otherwise prohibited in the relevant zoning district, and is not contrary to Chapter 4, Section 4.9.7.1.
38. As to the requested variance to Chapter 10, Section 10.4.2.1 to allow an accessory dwelling on Applicant-Appellant's property, the BCC finds that:
- a. The variance is not contrary to the public interest, and the spirit of the SLDC is

observed and substantial justice is done if the variance is granted because it will

allow the Applicant-Appellant to provide separate, affordable housing for a family member on the property while having no or minimal impact on water use, given an agreed condition requiring water metering and a limit for the combined water use of the two dwelling units of 0.25 acre feet per year. In addition, the BCC recently granted a similar variance request and partial plat vacation to another homeowner in the subdivision.

- b. There would be peculiar and exceptional practical difficulties or exceptional and undue hardship for the Applicant-Appellant created by the strict application of the SLDC requirement contained in Section 10.4.2.1, which requires the right to an accessory dwelling unit be approved at the time of approval of a major subdivision based on adequate studies, reports and assessments. Accessory dwellings are allowed and not uncommon in this zoning district. Prior to the adoption of the SLDC Applicant-Appellant would have been able to provide his daughter with housing on the property through a family transfer, as was accomplished by other property owners in the subdivision in question. Finally, as noted above, the BCC recently granted a similar variance request and partial plat vacation to another homeowner in the subdivision.

39. The Applicant-Appellant has met all requirements, including those contained in Section 5.11.2, necessary for the approval of the requested partial vacation of plat Note 12 for his property to remove the prohibition of guest houses. The partial vacation will not adversely affect people on contiguous lands or those within the subdivision, and no one attended the public hearing before the BCC to express any concerns regarding the partial vacation of plat Note 12.

40. Partial vacation of plat Note 12 will not threaten the public health, safety and welfare of the County because the Applicant must limit the combined water use for the two dwelling units to .25 acre feet per year.
41. The Applicant withdrew the request for a variance to Section 10.4.2.4 prior to the hearing before the BCC. The variance was not needed once NMED authorized Applicant to utilize the existing septic system to service both dwellings.

WHEREFORE the BCC hereby **FINDS** the Application is well-taken and hereby **GRANTS** the Applicant-Appellant's request for a variance of the Sustainable Land Development Code, of Chapter 10, Section 10.4.2.1 to allow an accessory dwelling unit within a major subdivision, subject to the following conditions:

1. Applicant-Appellant must request a partial plat vacation to modify the note that prohibits guest houses and re-record the plat;
2. Applicant-Appellant must install a meter on the well and submit proof at time of development application; and
3. Applicant-Appellant will ensure that water use on Lot 10 does not exceed a total of 0.25 acre feet per year for the dwelling and accessory dwelling combined.

The Board **FURTHER FINDS** the Applicant-Appellant's request for approval of a partial plat vacation to modify a plat note that prohibits guest houses within the Vista de Sandia Subdivision to allow Lot 10 to have an accessory dwelling unit is well-taken and is hereby **GRANTED** subject to conditions of approval number 2 and 3, above and provided Applicant complies with the requirement of Section 5.11.2.1 that this body approve the plat vacation statement.

IT IS SO ORDERED.

This Order was approved by the Board of County Commissioners of Santa Fe County on

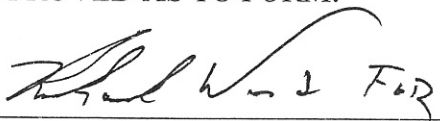
this _____ day of _____, 2019.

By: _____
Anna T. Hamilton, Chair

ATTEST:

Geraldine Salazar, County Clerk

APPROVED AS TO FORM:



Bruce Fredrick, County Attorney

Attorney Brown just listed.

COMMISSIONER MORENO: I second the motion.

CHAIR HANSEN: Roll call.

The motion to go into executive session pursuant to NMSA Section 10-15-1-H (2, 6, and 7) to discuss the matters delineated above passed by unanimous roll call vote as follows:

Commissioner Anaya	Aye
Commissioner Hamilton	Aye
Commissioner Hansen	Aye
Commissioner Moreno	Aye
Commissioner Roybal	Excused

[The Commission met in executive session from 6:35 – 8:00.]

COMMISSIONER ANAYA: Madam Chair, I'd move to come out of executive session.

COMMISSIONER HAMILTON: I'll second noting that we discussed only those items listed in the agenda.

The motion passed by unanimous [3-0] voice vote.

- B. **Resolution 2018-127, A Resolution Authorizing the County Manager to Secure Multi-Line and Law Enforcement Insurance Coverage for 2019 and to Finalize Negotiations for Multi-line and Law Enforcement Insurance Coverage and to Execute all Documents Necessary to Effectuate Such Coverage**
[Exhibit 6: Resolution 2018-127]

CHAIR HANSEN: And we have a resolution.

COMMISSIONER ANAYA: So moved, Madam Chair.

COMMISSIONER HAMILTON: Second.

CHAIR HANSEN: We have a motion and a second. All those in favor.

The motion passed by unanimous [3-0] voice vote. [Commissioner Roybal and Commissioner Moreno were not resent for this action.]

IX. PUBLIC HEARING

B. Land Use Cases

1. **BCC CASE# APP 18-5071 Angelo Ortega, Appeal. Angelo Ortega, Appellant, James W. Siebert & Associates, Agent, is appealing the Santa Fe County Planning Commission's decision to deny a variance of the Sustainable Land Development Code (SLDC), of Chapter 10, Section 10.4.2.1 to allow an accessory dwelling within a major**

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subdivision. If the appeal is approved by the Board of County Commissioners (BCC), the Appellant, requests a partial plat vacation to modify a plat note that prohibits guest houses within the Vista de Sandia Subdivision to allow lot 10 to have an accessory dwelling unit. The property is located at 120 North Paseo de Angel, within the La Cienega and La Cieneguilla Community District Overlay (LCLCCD) (RES-E), within Section 22, Township 16 North, Range 8 East (Commission District 3). Miguel "Mike" Romero, Case Manager
[Audio difficulties – staff report provided in summary and attached as Exhibit 7]

Miguel "Mike" Romero, Case Manager, summarized that the appellant is requesting the BCC overturn the Santa Fe County Planning Commission's decision to deny the variance request to allow an accessory dwelling unit within a major subdivision. If the appeal is granted and the variance is approved by the BCC, the appellant requests a partial plat vacation to modify a plat note that prohibits guest houses within the Vista de Sandia Subdivision to allow lot 10 to have an accessory dwelling unit.

Staff recommends denial of the appellant's request, and that the BCC uphold the Santa Fe County Planning Commission's decision to deny the appellant's variance request to allow an accessory dwelling within a major subdivision and therefore not act upon the partial plat vacation. However, if the BCC's decision is to approve the applicant's request, staff recommends imposition of the following conditions:

1. The applicant must request a partial plat vacation to modify the note that prohibits guest houses and rerecord the plat.
2. The applicant must install a meter on the well and submit proof at time of development application.
3. The applicant will ensure that water use on Lot 10 does not exceed a total of .25 acre-feet per year for the dwelling and accessory dwelling combined, and shall provide annual water meter readings to the Land Use Administrator.

[Duly sworn, Wayne Dalton, testified as follows:]

WAYNE DALTON: Good evening, Madam Chair, Commissioners. My name is Wayne Dalton and I am with James W. Siebert and Associates. Just like Mike mentioned in his staff report the accessory building would be for our client's daughter and our client's daughter only. The applicant does not plan to rent this dwelling or sell the property. This is strictly for his daughter, in order for him to supply her with an affordable place to live here in Santa Fe. His daughter is in her 20s. She's currently living with him in the property and I don't know if any of you have any 20-somethings living with you, but it's – it can get hard. I have a 20-something year old living with me and it's really hard.

Just want to let you know that we feel there is not increase to water, liquid waste or traffic being that the applicant's daughter already resides with him in the main residence. And like Mike says, since this case was heard by the Planning Commission we have worked with NMED staff and County staff and got ourselves a permit that complies with the SLDC so therefore we no longer need a variance to that section of the code.

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I also want to state in the record that we do disagree with the decision of the Planning Commission which was based on the purpose of a variance and not to authorize the use of land that is otherwise prohibited.

Commissioners, I want to let you know that everything around this subdivision would be allowed an accessory dwelling unit.

COMMISSIONER HAMILTON: I'm sorry, could you repeat that.

MR. DALTON: Every property outside of the boundaries of the 16-lot subdivision will most likely be allowed to have an accessory dwelling unit. So our client and we just feel that the basis of their decision was incorrect, based on that fact, that accessory dwelling units are allowed outside of this previously approved subdivision.

And I do have a map here if you'd like to see it?

CHAIR HANSEN: Did we get it in our packet? There were a number of maps in our packet.

MR. DALTON: If I could approach, Madam Chair.

CHAIR HANSEN: Yes, you may.

MR. DALTON: I just want to show the Commission – outlined in red is actually the subdivision in question. That is the applicant's property. This property here the Planning Commission approved to allow an accessory dwelling on this property and these two pieces of property were actually subdivided through small-lot family transfer so instead of a 16-lot subdivision we have now an 18 lot subdivision. And as you know, the old code allowed – there was a mechanism in the old code that allowed family transfers which would allow a property owner to go to half the minimum lot size. That would be an acre and a quarter. That mechanism went away with the SLDC and was replaced with the accessory dwelling unit. Just to give you guys an idea the properties outlined here in blacks are the properties that took advantage of the small-lot family transfers – which is a lot.

COMMISSIONER HAMILTON: Question.

CHAIR HANSEN: Commissioner Hamilton.

COMMISSIONER HAMILTON: The splits that occurred within that subdivision did those two or three or whatever you point out go out to 1.25 acres also?

MR. DALTON: Madam Chair, Commissioner Hamilton, yes. Those properties are an acre and a quarter.

Madam Chair, Commissioners, we ask that you overturn the Planning Commission's decision and allow our client the privilege that has been enjoyed by the surrounding properties within the same zoning district. We also ask that if the decision of the BCC is to approve the requested variance that you also approve the partial plat vacation, number 12, that states, guest houses are prohibited.

Again, Madam Chair, Commissioners, we are in agreement with staff's conditions. We are not asking for additional water. Our client, the applicant, will install a meter and water use will not exceed .25 acre-foot per year for the main house and the accessory building. That's the end of my presentation. If you have any questions, I would be happy to answer.

CHAIR HANSEN: Thank you, Mr. Dalton. It's nice to see you again. It has been a long time.

MR. DALTON: Excuse me.

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CHAIR HANSEN: It's been a long time since I've seen you.

MR. DALTON: Yes, it has.

CHAIR HANSEN: I would like to open this up for public hearing. Is there anybody from the public who would wish to speak? Seeing none, I'm going to close the public hearing.

And then I will go to the Commissioners; are there any other questions from the Commissioners?

COMMISSIONER HAMILTON: Madam Chair, I wonder if the other Commissioners would agree with going into a brief executive session to talk about certain questions.

COMMISSIONER ANAYA: I'm fine with going into a brief, as long as it is brief.

COMMISSIONER HAMILTON: Yes, I have a few –

COMMISSIONER ANAYA: I'm fine with that.

CHAIR HANSEN: Okay. Can I have a motion to go into executive session?

COMMISSIONER ANAYA: I move to go into executive session.

COMMISSIONER HAMILTON: Second.

CHAIR HANSEN: We'll go into executive session to talk about his land use case only.

The motion to go into executive session as permitted by Section 10-15-1 (H)(3) NMSA 1978 passed by unanimous roll call vote as follows:

Commissioner Anaya	Aye
Commissioner Hamilton	Aye
Commissioner Hansen	Aye
Commissioner Moreno	Aye
Commissioner Roybal	Aye

[The Commission met in executive session from 8:10 – 8:30.]

CHAIR HANSEN: Okay, I would like a motion to come out of executive session.

COMMISSIONER ANAYA: So moved.

COMMISSIONER HAMILTON: Second.

CHAIR HANSEN: The only thing we spoke about was the case before us in executive session. All those in favor?

The motion passed by unanimous [5-0] voice vote.

CHAIR HANSEN: What is the pleasure of the Board? Commissioner Anaya.

COMMISSIONER ANAYA: Madam Chair, I'm going to do this in two motions. I'm going to move approval of the appeal with staff conditions on the variance.

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COMMISSIONER ROYBAL: I'm going to second.

COMMISSIONER ANAYA: And I'm going to also state that from my perspective the criteria have been met to substantiate the variance.

COMMISSIONER ROYBAL: I would agree as part of my second.

CHAIR HANSEN: Okay, any other discussion?

COMMISSIONER HAMILTON: Madam Chair.

CHAIR HANSEN: Yes.

COMMISSIONER HAMILTON: I want to make for the record particular note of the condition on water use based on all the information that was presented meets the one concern and limitation for this subdivision so that even with the accessory dwelling as long as water is limited to the .25 acre-feet per year use we are fulfilling the spirit of the subdivision – the restrictions on the subdivision.

COMMISSIONER ANAYA: Madam Chair.

CHAIR HANSEN: Yes.

COMMISSIONER ANAYA: I appreciate that comments, Commissioner Hamilton. I would also add that the additional work and information that the applicant went to NMED to modify the liquid and solid waste permit, right? That that also provided additional information that wasn't available at the time that the case went to Planning Commission; is that correct?

MR. ROMERO: Yes.

COMMISSIONER ANAYA: So I think that is also pertinent.

CHAIR HANSEN: I thank you for that comment, Commissioner.

COMMISSIONER HAMILTON: Can I make one final comment?

CHAIR HANSEN: Yes, you can, Commissioner Hamilton.

COMMISSIONER HAMILTON: And that is unless you have other instances to make mention of there is no evidence in the public hearing that there is any real opposition from other residents of the subdivision that this would be considered a concern to them and that addresses the variance and having to do with being in the public interest.

CHAIR HANSEN: Okay, we have a motion. All those in favor.

The motion passed by unanimous [5-0] voice vote.

COMMISSIONER ANAYA: Madam Chair.

CHAIR HANSEN: Yes.

COMMISSIONER ANAYA: Consistent with this case, I move that we vacate the plat to accommodate this adjustment. Is that good verbiage, Ms. Brown?

COMMISSIONER HAMILTON: I'll second.

CHAIR HANSEN: Anything else we need in the motion to do for this case? Are we good? So we have a motion to vacate the plat; do we have a second?

COMMISSIONER HAMILTON: I did second.

CHAIR HANSEN: Okay, all those in favor.

The motion passed by unanimous [5-0] voice vote.

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X. Concluding Business

A. Announcements

COMMISSIONER ROYBAL: Madam Chair.

CHAIR HANSEN: Yes.

COMMISSIONER ROYBAL: I just want to state for the record that the resolution that Commissioner Anaya passed in appreciation of MaryAnne Anaya –

CHAIR HANSEN: The proclamation.

COMMISSIONER ROYBAL: The proclamation. That I voted in the affirmative with the Commission. I had to step out just momentarily but I do want to say that it is put on the record that I do vote in the affirmative for that. Thank you.

CHAIR HANSEN: Thank you very much. Any other announcements?

COMMISSIONER ANAYA: Madam Chair.

CHAIR HANSEN: Yes.

COMMISSIONER ANAYA: Madam Chair, one last time as I vacate this seat, I want to sincerely thank the four of you and the manager and the team for everything. Again, it's been an excellent experience. I have enjoyed the interaction that we had on this Commission as I did on prior Commissions but I think we really gelled as a team and advanced everything in the interest of the public and the interest of our districts collectively. And I sincerely, from the bottom of the heart, appreciate and thank you for that.

CHAIR HANSEN: Thank you, Commissioner Anaya. I agree with you on that. I think that we have worked well as a team together and we will miss you. That is definitely the truth. As I've said before, we've had disagreements but they've always been respectful and I have truly enjoyed serving with you because I think adversity and disagreement make a stronger and also make us wiser. I want to thank you for that, very much. With that –

COMMISSIONER MORENO: Hold on, Madam Chair. Under the business of gratitude, I would like to appreciate you for your service and I've learned a lot from you and how you make your case and I have learned from you quite a bit, thank you.

COMMISSIONER ANAYA: Thank you so much.

CHAIR HANSEN: Thank you, Commissioner Moreno.

COMMISSIONER ROYBAL: Madam Chair.

CHAIR HANSEN: Yes, Commissioner Roybal.

COMMISSIONER ROYBAL: I know we've all said this probably several times this evening and this afternoon but it was truly an honor and I just want to close the evening with reiterating that and saying that it was truly an honor and I cherish your friendship and look forward to a continued friendship over the years. Thank you, sir.

COMMISSIONER HAMILTON: Madam Chair.

CHAIR HANSEN: Yes.

COMMISSIONER HAMILTON: Can't leave it, we've all said it. But it is bitter sweet and it really was an honor.

COMMISSIONER ANAYA: I feel the same. Thank you.

CHAIR HANSEN: Yes, thank you to everyone here and happy holidays,

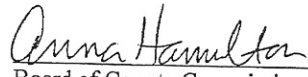
SFC CLERK RECORDED 01/30/2019

happy New Year and have a wonderful season. We will have an inaugural for our new Commissioner on December 28th at 2 p.m. so please join us in the chambers. Thank you and good night all.

B. Adjournment

Having completed the agenda and with no further business to come before the Commission, Chair Hansen declared this meeting adjourned at 8:40 p.m.

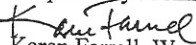
Approved by:


Board of County Commissioners
Anna ~~Hansen~~, Chair
Hamilton



GERALDINE SALAZAR
SANTA FE COUNTY CLERK

Respectfully submitted:

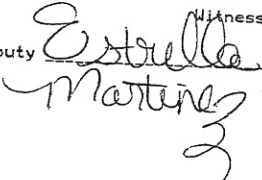

Karen Farrell, Wordswork
453 Cerrillos Road
Santa Fe, NM 87501

COUNTY OF SANTA FE)
STATE OF NEW MEXICO) ss

BCC MINUTES
PAGES: 103

I Hereby Certify That This Instrument Was Filed for
Record On The 30TH Day Of January, 2019 at 03:11:40 PM
And Was Duly Recorded as Instrument # 1877928
Of The Records Of Santa Fe County



Witness My Hand And Seal Of Office
Geraldine Salazar
Deputy  County Clerk, Santa Fe, NM

SFC CLERK RECORDED 01/30/2019

**PARTIAL VACATION OF PLAT
OF
LOT 10, VISTA DE SANDIA SUBDIVISION**

Located in Section 22, T 16N, R8E, NMPM
Santa Fe County, New Mexico

The undersigned owner of Lot 10 hereby declares that Plat Note No. 12 for property located in Section 22, T 16N, R8E, Santa Fe County, New Mexico, as shown on the "Subdivision Plat for Vista De Sandia Subdivision" filed in the office of the County Clerk of Santa Fe County, New Mexico, on April 29, 1996 in Plat Book 333, Pages 004-005, and which is more particularly described as follows, is hereby partially vacated as follows:

1. Plat Note No. 12 states that "Guests Houses are prohibited on these lots; and
2. Plat Note No. 12 is partially vacated to allow a Guest House on Lot 10; and
3. This partial vacation of Plat Note No. 12 is made with the free consent and in accordance with the wishes and desires of the undersigned.

WHEREFORE, the Landowner hereby DECLARES that the Final Plat filed in Plat Book 333, Pages 004-005, is PARTIALLY VACATED to the extent, and only to the extent, that a Guest House is permitted on Lot 10.

Owner of Lot 10

Angelo Ortega

Acknowledgement

State of New Mexico)
) ss.
County of Santa Fe)

The foregoing Partial Vacation of Plat was acknowledged before me by Angelo Ortega, to be personally known, on this ____ day of _____, 2019.

My Commission expires:

Notary Public

[Approval by Board of County Commissioners on Next Page]

The forgoing Landowner Statement was APPROVED by the Santa Fe County Board of County Commissioner on the _____ day of _____, 2019.

**BOARD OF COUNTY COMMISSIONERS
OF SANTA FE COUNTY**

By: _____
Board of County Commissioners Chair

ATTEST:

Geraldine Salazar
Santa Fe County Clerk

Date: _____

Approved as to form:

Santa Fe County Attorney

